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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/315,334	05/20/1999	MICHAEL E. D. WINSER	40062.12US01	6400
23552	7590	09/28/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			QUELER, ADAM M	
			ART UNIT	PAPER NUMBER
			2178	

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/315,334

Applicant(s)

WINSER, MICHAEL E. D.

Examiner

Adam M. Queler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. This action is responsive to communications: RCE filed 08/08/2005, and Amendment filed 07/07/2005.

2. Claims 1 and 5-33 are pending in the case. Claims 1, 5, 14, 19, 24, 25, and 29 are independent claims.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/8/2005 has been entered.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claims 29-33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

A data signal is not tangible and therefore unpatentable because it does not fit into one of the statutory categories of inventions.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. **Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Wallent, "Be More Dynamic" (Originally published, 6/11/1998m as shown in the judyonline.com reference).**

Regarding independent claim 1, Wallent discloses expressions that establish a relationship between properties in code executable by a browser, each property defining a characteristic of an object, the first property being the width of the browser window, and second property being an expression that is a function of the first and represents a an element (p. 1, example 1). Wallent teaches automatically changing the value of the expression in response to a change in the scalar and updating the document ("Now what?" 2nd para.).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 19, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallent, and further in view of Harris et al. (USPN 5276607—published on 1/4/1994).**

Regarding independent claim 19, Wallent teaches scalars and expressions of scalars that are used to program formatting instructions as set forth in claim 1 above. Harris discloses a dependent/dependency relationship between scalar properties and expressions that allows the expressions to be recalculated (col. 1, ll. 20-25). Inherently the code must be analyzed to determine where scalar properties and expressions are. Harris discloses executing an expression

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dependent on a scalar property upon notification of a change in that property (col. 2, ll. 61-69).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Harris and Wallent, as Wallent's implementation requires a recalculation engine (p. 1, last para.). Additionally, while Harris specifically deals with spreadsheets, the spreadsheet element it deals with is the cells, which are effectively the formulas of Wallent, in that they are formulas that need to be recalculated (Harris, col. 1, line 60 – col. 2, line 22).

Regarding dependent claim 23, while references are silent as to a monitor, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a monitor for display of the HTML document, as it was a well-known peripheral for computers, for the purpose of displaying data.

Regarding independent claims 24 and 25, the apparatus and medium contain the same limitations as the computer of claim 19 and are rejected for analogous reasons.

10. Claims 5-18, 20-22, and 26-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallent and further in view of Harris, and further in view of Garman (USPN 5926822—filed on 9/6/1996).

Regarding independent claim 5, Wallent teaches scalars and expressions of scalars that are used to program formatting instructions as set forth in claim 1 above. Wallent does not explicitly teach how the calculations are done. Harris discloses a first object that is a scalar and a second object that is a function of the first (col. 4, ll. 50-59). Harris also discloses a dependent/dependency relationship between scalar properties and expressions that allows the expressions to be recalculated (col. 1, ll. 20-25). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Harris and Wallent, as Wallent's

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implementation requires a recalculation engine (p. 1, last para.). Additionally, while Harris specifically deals with spreadsheets, the spreadsheet element it deals with is the cells, which are effectively the formulas of Wallent, in that they are formulas that need to be recalculated (Harris, col. 1, line 60 – col. 2, line 22). Harris is silent as to using nodal structure with pointers.

Gorman discloses a tree for doing such recalculations (col. 9, ll. 3-5). Trees inherently contain nodes linked with pointers in memory. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Gorman into Harris and Wallent in order to use tree-based structures instead of list based data structures, to gain the advantages of dynamic memory allocation, which were well-known in the art at the time of the invention.

Regarding dependent claim 6, Wallent teaches the recalculation is done by the browser (p. 1, last para.), therefore the data structure as described in the combination of claim 5 above would be done by the browser.

Regarding dependent claim 7-11, Wallent teaches no limit to how many expressions and scalars may map to each other (whole document) and either implicitly or explicitly shows the claimed relationships (p. 2-4, examples).

Regarding dependent claim 12, Wallent teaches several dependency relationships (p. 3) and inherently one must be most-dependent, and one least dependent. Wallent is silent on how execution will be handled. Harris teaches expressions can have any number of dependencies (col. 1, ll. 56-64), which includes have an expression dependent on an expression dependent on a scalar. Harris also teaches recalculating in an order such that dependent expressions will not be recalculated until its dependent expressions are recalculated first (col. 1, ll. 26-32). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine

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Harris and Wallent, as Wallent's implementation requires a recalculation engine (p. 1, last para.). Additionally, while Harris specifically deals with spreadsheets, the spreadsheet element it deals with is the cells, which are effectively the formulas of Wallent, in that they are formulas that need to be recalculated (Harris, col. 1, line 60 – col. 2, line 22). Gorman discloses a tree for doing such recalculations (col. 9, ll. 3-5). Trees inherently contain nodes linked with pointers in memory. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Gorman into Harris in order to use tree-based structures instead of list based data structures, to gain the advantages of dynamic memory allocation, which were well-known in the art at the time of the invention.

Regarding dependent claim 13, Wallent teaches several dependency relationships (p. 3) and inherently one must be most-dependent, and one least dependent. Wallent is silent on how execution will be handled. Harris teaches expressions can have any number of dependencies (col. 1, ll. 56-64), which includes have an expression dependent on an expression dependent on a scalar, and a third expression. Harris also teaches recalculating in an order such that dependent expressions will not be recalculated until its dependent expressions are recalculated first (col. 1, ll. 26-32). Gorman discloses a tree for doing such recalculations (col. 9, ll. 3-5). Trees inherently contain nodes linked with pointers in memory. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Gorman into Harris in order to use tree-based structures instead of list based data structures, to gain the advantages of dynamic memory allocation, which were well-known in the art at the time of the invention.

Regarding independent claim 14, Wallent teaches scalars and expressions of scalars that are used to program formatting instructions as set forth in claim 1 above. Wallent does not explicitly

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teach how the calculations are done. Harris discloses a first object that is a scalar and a second object that is a function of the first (col. 4, ll. 50-59). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Harris and Wallent, as Wallent's implementation requires a recalculation engine (p. 1, last para.). Additionally, while Harris specifically deals with spreadsheets, the spreadsheet element it deals with is the cells, which are effectively the formulas of Wallent, in that they are formulas that need to be recalculated (Harris, col. 1, line 60 – col. 2, line 22). Harris does provide a method of mapping dependencies (col. 1, ll. 20-25), but does not explicitly disclose a dependency graph. Garman teaches using a tree (col. 9, ll. 3-5), equivalent to a dependency graph for recalculations. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Garman with Harris and Matthews, as trees were a common method of mapping dependencies (col. 9, ll. 3-5).

Regarding dependent claim 15, Wallent does not teach a recalculation method. Harris discloses changing a dirty bit when the properties change (col. 5, ll. 51-64). Harris teaches adding dependent cells to a recalculation list (col. 7, ll. 60-65), equivalent to propagating the dirty bit. Finally Harris teaches recalculating cells marked for recalculation (col. 8, ll. 24-27). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Harris and Wallent, as Wallent's implementation requires a recalculation engine (p. 1, last para.). Additionally, while Harris specifically deals with spreadsheets, the spreadsheet element it deals with is the cells, which are effectively the formulas of Wallent, in that they are formulas that need to be recalculated (Harris, col. 1, line 60 – col. 2, line 22).

Regarding dependent claim 16, Wallent does not teach a recalculation method. Harris teaches recalculating at the completion of propagation (col. 8, ll. 16-27). It would have been obvious to

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one of ordinary skill in the art at the time of the invention to combine Harris and Wallent, as Wallent's implementation requires a recalculation engine (p. 1, last para.). Additionally, while Harris specifically deals with spreadsheets, the spreadsheet element it deals with is the cells, which are effectively the formulas of Wallent, in that they are formulas that need to be recalculated (Harris, col. 1, line 60 – col. 2, line 22).

Regarding dependent claim 17, Wallent does not teach a recalculation method. Harris teaches recalculating in an order such that dependent expressions will not be recalculated until its dependent expressions are recalculated first (col. 1, ll. 26-32). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Harris and Wallent, as Wallent's implementation requires a recalculation engine (p. 1, last para.). Additionally, while Harris specifically deals with spreadsheets, the spreadsheet element it deals with is the cells, which are effectively the formulas of Wallent, in that they are formulas that need to be recalculated (Harris, col. 1, line 60 – col. 2, line 22). Harris does provide a method of mapping dependencies (col. 1, ll. 20-25), but does not explicitly disclose a dependency graph. Garman teaches using a tree, equivalent to a dependency graph for recalculations. A tree inherently has a plurality of nodes. Also a most-dependent node would inherently have no dependent nodes, and similarly a least dependent expression, would only be dependent on a scalars. It would have been obvious to modify Garman into Harris and Wallent to enable use of tree-structure rather than the lists of Harris, as trees were a common method of mapping dependencies (col. 9, ll. 3-5).

Regarding dependent claim 18, Wallent teaches that the user interface must be updated upon the changing of values (p. 1, last para.).

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Regarding dependent claim 20, Wallent teaches scalars and expressions of scalars that are used to program formatting instructions as set forth in claim 1 above. Harris teaches adding dependent cells to a recalculation list (col. 7, ll. 60-65), equivalent to propagating the dirty bit. Finally Harris teaches executing cells marked for recalculation (col. 8, ll. 24-27). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Harris and Wallent, as Wallent's implementation requires a recalculation engine (p. 1, last para.).

Additionally, while Harris specifically deals with spreadsheets, the spreadsheet element it deals with is the cells, which are effectively the formulas of Wallent, in that they are formulas that need to be recalculated (Harris, col. 1, line 60 – col. 2, line 22). Harris does provide a method of mapping dependencies (col. 1, ll. 20-25), but does not explicitly disclose a dependency graph. Garman teaches using a tree (col. 9, ll. 3-5), equivalent to a dependency graph for recalculations. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Garman with Harris and Matthews, as trees were a common method of mapping dependencies (col. 9, ll. 3-5).

Regarding dependent claim 21, Wallent does not teach a recalculation method. Harris discloses executing the expressions in a sequential order from least-dependent to most-dependent (col. 7, line 39 – col. 8, line 27).

Regarding dependent claim 22, Wallent and Harris do not explicitly disclose input signals. Garman teaches a signal received by the input changes the value of a scalar property (col. 8, ll. 66-67), and generating a changed property notification (col. 9, ll. 1-3). Upon receive the signal the expressions are executed (col. 9, ll. 1-7). It would have been obvious to modify Garman into

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Harris and Wallent to enable use of tree-structure rather than the lists of Harris, as trees were a common method of mapping dependencies (col. 9, ll. 3-5).

Regarding dependent claims 26-28, the apparatus analogous to the computers of claims 20-22 are rejected under the same rationale.

Regarding claims 29-33, the instructions for executing the methods of claims 14-18 are rejected under the same rationale.

Response to Arguments

11. Applicant's arguments with respect to claims 1 and 5-33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam M. Queler whose telephone number is (571) 272-4140. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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William L. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER
9/17/2005